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From: Mary L. Brown <0006343251@mcimail.com>
To: Regina Keeney <rkeeney@fcc.gov>
Date: 5/4/97 6:59pm
Subject: Re: MCI Access ex parte

May 4, 1997

Regina Keeney
Chief, Common Carrier Bureau
Federal Communications Commission
1919 M St. NW
Washington, D.C. 20554

Re: EX PARTE presentation in CC Docket No. 96-262 and
CC Docket No. 96-45

Dear Ms. Keeney:

We understand that the Commission is contemplating a number of access reform and universal service reform follow-on proceedings. That is entirely appropriate, because the pending proceedings have raised a host of questions that remain to be answered.

It is critically important, however, that all legitimate inquiries be launched, and that they all be brought to resolution within the same time period. In particular, MCI believes it crucial that the Commission determine (i) the forward-looking cost of access and the legitimacy, if any, of the use of access-charge revenues in excess of cost, and (ii) the continuing existence of any and all impediments to the creation of a vibrant market for local exchange carrier (LEC) services, including the delivery of interstate access.

First, MCI and many others have repeatedly urged the Commission to examine the extent to which existing interstate access charges exceed forward-looking economic cost. It is our view that today's access rates are approximately seven times forward-looking economic cost, and that the "gap" between today's rates, and what rates would be in a competitive market can be explained by decisions that incumbent LECs have made themselves to overbuild plant or to otherwise pad their costs, and cannot be justified by claims that the surplus is being used to recover historical investment or to subsidize local telephone service. To the extent that the forthcoming order does not answer these issues, the Commission should begin examination of them immediately so that a firm basis will exist for future, additional, Commission action.

It is equally important that any proceeding that the Commission contemplates to evaluate the difference between today's access charge rate levels, and those that would occur in a competitive market, be comprehensive. The Commission should not, for example, announce a proceeding that merely examines alleged "stranded investment" because such a proceeding could be misunderstood as suggesting that the Commission has determined that one part of the access-charge debate deserves more consideration than another. (Of course, we would welcome a serious examination of so-called "stranded investment" as part of a larger inquiry, because we are confident that the facts will demonstrate that there is no "stranded" investment that justifies recovery of funds beyond the forward-looking cost of access.)

Second, and to the extent that it appears that the Commission employs market-based approaches to the regulation of access-charge rate levels, it will be important to examine the impediments to competition that might render on-going use of market-based regulation ineffective, including the existence and vitality of operating support systems.
There is little, if any, evidence that long distance companies have any choice of service providers in the access market.
Competition that would allow us to avoid incumbent access charges does not exist today, and, due to well-documented problems with operational support services and delays in getting interconnection agreements finalized, we do not anticipate it materializing tomorrow. Because any market-based approach assumes the existence of a market, the Commission should move promptly to examine the basis of any market-based conclusions.

For example, the comments filed by the National Telecommunications and Information Administration (NTIA) expressly recommend that the Commission "commence a review of its revised access charge regime no later than January 1, 1998" in order to "assess the extent to which marketplace forces are inducing further reductions in interstate access charges." NTIA goes on to recommend that if the Commission determines that incumbent LECs have not complied with their obligations under the Telecommunications Act to interconnect and to provide unbundled network elements "it should immediately prescribe further reductions in access rates...."

Similarly, the Department of Justice, in its April 24, 1997 ex parte, explained that "[a]t present, competition in access markets, and in closely related local exchange markets with which they often share scope economies, is far too limited to warrant full deregulation."
The DOJ recommended that, once transitional mechanisms are implemented, the Commission "will be in a position to evaluate whether market forces have driven access rates to economic cost, and if not, to prescribe rates to economic cost at that time."

The Commission will best serve the public interest by ensuring that all components of the access-charge debate are carefully and quickly examined so that mythology can be separated from fact and the basis for future decision can be quickly established.

Sincerely,

Jonathan B. Sallet

cc: Tom Boasberg
John Nakahata
James Coltharp

James Casserly
Dan Gonzalez

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